

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, OCTOBER 30, 2007**

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In Re Claim of Gonzalez; (2) Callaway v. City of San José, et al., (3) South Almaden Valley Rural Alliance, et al. v. City of San José, et al., (4) City of San José v. Housing & Development Software, LLC, (5) Miller v. City of San José, (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, subsection (b) with significant exposure in one (2) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI).

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened at 1:35 p.m. in the Council Chambers

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

## **INVOCATION**

Lauren Gripenstraw, Leigh High School, played Tillman's Fantasia No. 6 for Solo Flute. (District 9)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Campos, and carried unanimously the Orders of the Day and the Amended Agenda were approved, and Item 2.1(a)-(c) was deferred to November 6, 2007. (11-0.)

## **CEREMONIAL ITEMS**

**1.3 Presentation of a commendation to the General Services Fleet Audit Team for its exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Mayor Reed and City Manager Debra Figone recognized and commended the General Services Fleet Audit Team for its outstanding dedication and important contributions to the City of San José.

**1.1 Presentation of a commendation to the San José Giants organization for winning the California League Championship and for their continued commitment to the community. (Mayor/Cortese/Nguyen)**

Action: Mayor Reed, Vice Mayor Cortese and Council Member Nguyen recognized and commended the San José Giants organization for their achievements.

**1.2 Presentation of a commendation to the Fairmont Hotel for 20 years of extraordinary service to the City of San José. (Mayor/Cortese/Liccardo)  
(Deferred from 10/16/07 – Item 1.5)**

Action: Mayor Reed, Vice Mayor Cortese and Council Member Liccardo recognized and commended the Fairmont Hotel for 20 years of service to the San José community.

**1.4 Presentation of a commendation to the Santa Clara University Solar Decathlon Team for placing third in the international Solar Decathlon, creating a livable green home and exemplifying the creativity that will spur the next wave of Clean Tech innovation in our region. (Mayor/Chirco/Cortese)  
(Rules Committee referral 10/24/07)**

Action: Mayor Reed, Vice Mayor Cortese and Council Member Chirco recognized and commended the Santa Clara University Solar Decathlon Team for their outstanding achievements.

## **CONSENT CALENDAR**

Upon motion by Council Member Council Member Campos, seconded by Council Member Williams and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0).

**2.1 Approval of Minutes:**

- (a) **Regular Minutes of August 21, 2007**
- (b) **Joint City Council/Redevelopment Agency/County Board of Supervisors Minutes of August 23, 2007**
- (c) **Regular Minutes of August 28, 2007**
- (d) **Regular Minutes of August 14, 2007**  
**[Deferred from 10/23/07 – Item 2.1(b)]**

Action: Deferred to November 6, 2007 per City Clerk under Orders of the Day.

- 2.2 (a) ORD. NO. 28146 – Rezoning certain real property situated at the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court (1250 Blossom Hill Road) to R-M Multiple Residence Zoning District. C07-027**

Documents Filed: Proof of Publication of the title of Ordinance No. 28146 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28146](#) was adopted. (11-0.)

- (b) ORD. NO. 28147 – Rezoning certain real property situated at the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 Bark Lane) to A(PD) Planned Development Zoning District. PDC06-005**

Documents Filed: Proof of Publication of the title of Ordinance No. 28147 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28147](#) was adopted. (11-0.)

- (c) ORD. NO. 28148 – Rezoning certain real property situated at the east side of South Third Street approximately 500 feet north of Keyes Street (1010 South Third Street) to A(PD) Planned Development Zoning District. PDC07-002**

Documents Filed: Proof of Publication of the title of Ordinance No. 28148 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28148](#) was adopted. (11-0.)

- (d) ORD. NO. 28150 – Rezoning certain real property situated on the southwest corner of Zanker Road and Devcon Drive (1821 Zanker Road) to IP Industrial Park Zoning District. C07-062**

Documents Filed: Proof of Publication of the title of Ordinance No. 28150 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28150](#) was adopted. (11-0.)

- 2.2 (e) **ORD. NO. 28151 – Rezoning certain real property situated at the northwest corner of North First Street and Vista Montana to A(PD) Planned Development Zoning District. PDC07-054**

Documents Filed: Proof of Publication of the title of Ordinance No. 28151 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28151](#) was adopted. (11-0.)

- (f) **ORD. NO. 28152 – Rezoning certain real property situated at the northwesterly corner of West Tasman Drive and Vista Montana to A(PD) Planned Development Zoning District. PDC07-055**

Documents Filed: Proof of Publication of the title of Ordinance No. 28152 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28152](#) was adopted. (11-0.)

- (g) **ORD. NO. 28154 – Approving a development agreement between the City of San José and Novellus Systems, Inc. relative to the development of certain property located within the City of San José, California.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28154 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28154](#) was adopted. (11-0.)

- (h) **ORD. NO. 28155 – Rezoning certain real property situated in the area generally bound by Blossom Hill Road on the north, Gallup Drive to the west, Mesa Drive to the south, and Almaden Expressway to the east (1110, 1150 and 1156 Blossom Hill Road) to CG Commercial General Zoning District. C07-069**

Documents Filed: Proof of Publication of the title of Ordinance No. 28155 executed on October 23, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28155](#) was adopted. (11-0.)

- 2.3 Approval of the Lower Silver Creek Trail Master Plan and adoption of a resolution incorporating the environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP07-106. Council Districts 3, 5 and 8. SNI: Five Wounds/Brookwood Terrace, Mayfair, East Valley, 680 Communities, Gateway East. (Parks, Recreation and Neighborhood Services)  
(Deferred from 10/23/07 – Item 2.12)**

Action: Deferred to 11/20/07 per Administration.

- 2.4 Acceptance of the Office of the City Auditor's Report of Activities for the Period August 16 Through September 15, 2007. (City Auditor)**

Documents Filed: Report of Activities for the Period August 16 through September 15, 2007 from the Office of the City Auditor.

Action: The report was accepted. (11-0.)

- 2.5 Acceptance of the findings report from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending June 30, 2007. (City Auditor)**

Documents Filed: Memorandum from Interim City Auditor, Steve Hendrickson, dated October 11, 2007, recommending acceptance of the reports.

Council Member Pyle pulled Item 2.5 for clarification.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 conditional approval of stock transfer were accepted. (11-0.)

- 2.6 Adoption of a resolution certifying that:**

- (a) **The City of San José's Revolving Loan Fund (RLF) Plan is consistent with and supportive of the area's current economic adjustment strategy; and**
- (b) **The RLF is being operated in accordance with the policies and procedures contained in the RLF plan, and the loan portfolio meets the standards contained therein.**

**CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer, Paul Krutko dated October 9, 2007, recommending the adoption of a resolution.

Action: [Resolution No. 74075](#), entitled: "A Resolution of the Council of the City of San José Certifying that (1) The City's Revolving Loan Fund is Consistent with and Supportive of the Area's Current Economic Adjustment Strategy, and (2) That the Revolving Loan Fund is Being Operated in Accordance with Certain Policies and Procedures", was adopted. (11-0).

- 2.7**
- (a) Approval of a lease agreement with Cirque du Soleil for the purpose of leasing portions of the City’s “E” Parking Lot (Taylor/San Pedro/Mission) to Cirque du Soleil from December 24, 2007 to March 28, 2008 to allow Cirque du Soleil to present to the public its touring show, for rental consideration to the City of \$90,000.**
  - (b) Direction to staff to facilitate the permitting process required to authorize use of the “E” Parking Lot for Cirque du Soleil’s touring show, which will include community outreach and City employee and public parking plans, and that the City hold a public hearing to consider amendment of the current Conditional Use Permit for this site.**
  - (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
    - (1) Establish a Citywide appropriation to the Office of Economic Development for Cirque du Soleil in the amount of \$90,000;**
    - (2) Increase the estimate for Other Revenue by \$90,000.**

**CEQA: Exempt, File No. CPA05-015-01. Council District 3. (Economic Development/ City Manager’s Office)**

Documents Filed: Memorandum from Paul Krutko, Chief Development Officer, and Larry Lisenbee, Budget Director, dated October 9, 2007, recommending the approval of the lease agreement between the City of San José and Cirque du Soleil for a touring show in San José’ in 2008 and adoption of appropriation ordinance and funding sources resolution amendments in the General Fund for Cirque du Soleil lease agreement.

Council Member Liccardo pulled item 2.7 for clarification.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Ordinance No. 28160](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Cirque du Soleil; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption,” and [Resolution No. 74076](#), entitled: “Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the General Fund” were adopted. (11-0.)

- 2.8 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #3 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance, Scott P. Johnson, dated October 9, 2007, recommending approval of the open purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2007-2008 #3 and authorization for the Director of Finance to execute the purchase orders was approved. (11-0.)

- 2.9 Report on Request for Proposal for Large Format Blueprint Printing and authorize the Director of Finance to:**
- (a) Execute one-year open purchase orders with:**
    - (1) Peninsula Digital Imaging as the low bidder in the amount of \$173,000 to be used as the primary supplier; and**
    - (2) San José Blue as the second low bidder in the amount of \$173,000 to be used as the secondary supplier.**
  - (b) Adjust amounts of purchase orders among the two vendors to ensure service within the first year for a cumulative total not to exceed \$346,000.**
  - (c) Amend the initial purchase orders to ensure services, as required, subject to annual appropriations.**
  - (d) Execute four one-year options to renew purchase orders subject to Consumer Price Index adjustments and annual appropriations.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance, Scott P. Johnson, dated October 9, 2007, recommending approval of the request for a proposal.

Action: The proposal for large format blueprint printing was approved and the Director of Finance was authorized to execute the purchase orders. (11-0.)

- 2.10 Approval of the first amendment to the agreement for architectural consultant services with CWA AIA, Inc. for the Edenvale Branch Library Project extending the term of the agreement from October 31, 2007 to April 30, 2008 at no additional cost to the City. CEQA: Exempt, File No. PP05-011. Council District 2. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated October 9, 2007 recommending approval of the first amendment of the agreement.

Action: The first amendment to the agreement for architectural consultant services with CWA AIA, Inc. for the Edenvale Branch Library Project extending the term of the agreement from October 31, 2007 to April 30, 2008 at no additional cost to the City was approved. (11-0.)

- 2.11 Request for an excused absence for Council Member Nguyen from the Regular City Council Meeting (including Closed and Evening Sessions) on October 16, 2007 due to illness. (Nguyen)**  
**(Rules Committee referral 10/17/07)**

Documents Filed: Memorandum from Council Member Nguyen, dated October 15, 2007, requesting an excused absence due to illness.

Action: The absence was excused. (11-0.)

**END OF CONSENT CALENDAR**

## **JOINT REDEVELOPMENT AGENCY**

The Redevelopment Agency Board convened at 1:53 p.m. to Consider Items 9.1 in Joint Session.

### **9.1 As recommended by the Rules and Open Government Committee on October 17, 2007:**

- (a) Adopt the following ten goals identified in the Green Vision:**
    - (1) Within 15 years, the San José community will strive to:**
      - (a) Create 25,000 CleanTech jobs as the World Center of CleanTech Innovation.**
      - (b) Reduce per capita energy use by 50 percent.**
      - (c) Get 100 percent of electrical power from clean renewable sources.**
      - (d) Build or retrofit 50 million square feet of green buildings.**
      - (e) Divert 100 percent of the waste from our landfill and convert waste to energy.**
      - (f) Recycle or beneficially reuse 100% of our wastewater (100 million gallons per day).**
      - (g) Adopt a General Plan with measurable standards for sustainable development.**
      - (h) Ensure that 100 percent of public fleet vehicles run on alternative fuels.**
      - (i) Plant 100,000 new trees and replace 100 percent of streetlights with smart, zero-emission lighting.**
      - (j) Create 100 miles of interconnected trails.**
  - (b) Direct staff to work through council committees to develop implementation strategies for each of the three elements in the document (CleanTech, Sustainability, and Green Mobility) for the reasons set forth in the Green Vision.**
- (Mayor)**  
**(Rules Committee referral 10/17/07)**

Documents Filed: (1) Memorandum from Mayor Chuck Reed, dated October 5, 2007, recommending the adoption of the Green Vision plan. (2) Memorandum from City Clerk Lee Price, dated October 18, 2007, submitting the recommendation of the Rules and Open Government Committee. (3) Letter from Rafael Reyes and Annie Stauffer of the Sierra Club, dated October 25, 2007, in support of the City of San José's Green Vision Plan. (4) Letter from Justin D. Bradley and Frank Teng of the Silicon Valley Leadership Group, dated October 30, 2007, in support of the City of San José's 10-point Green Vision Plan.

Council Member Nguyen suggested the creation of an Environmental Commission to solicit input from the community regarding the creation of an interconnected trail system.



## 9.1 (Cont'd.)

Public Comments: Speaking in favor of the proposed Green Vision Plan: Michael Lechner and Justin Bradley (Silicon Valley Leadership Group); Darren Deffner (PG&E); Rick Kuhn (Silicon Valley Solar Industry Regional Collaborative); Annie Belt, David Marsland and Anne Stouffer (Sierra Club's San José Cool Cities); David Kaneda and Mark Fisher (Integrated Design Associates); Roger Barney (Finelite, Inc.); Ross Signorino; Mark Boyd; Bobby Ram and Dick Swanson (Sunpower Corporation); Brian Sager (Nanosolar, Inc.); Homayoun Talieh (SoloPower, Inc.); Peter Friess (The Tech Museum of Innovation); Bob Garzee (Synergy EV); Linda LeZotte; Michael Gross (Zanker/Green Waste); Sally Tomlinson (Sustainable Silicon Valley); Doug Payne (SolarTech); Shannon O'Keeffe (National Brotherhood of Teamsters); Carey Levine (ASL Recycling); Susan Baugh (Siemens Building Technologies); and William Garbett;

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo and carried unanimously, adoption of the Green Vision plan and development of implementation strategies for CleanTech, Sustainability and Green Mobility were accepted. (11-0).

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 As recommended by the Rules and Open Government Committee on September 19, 2007:

- (a) Direct staff to expand the Clean Air Vehicle Program to include all zero emission vehicles registered in the City of San José. (Constant)
- (b) Accept the staff report on the workload assessment of making Zero Emissions Vehicles (ZEV) registered in the City of San José eligible to participate in the Clean Air Vehicle Parking Validation Program allowing free parking at specified City parking facilities and parking meters. CEQA: Not a Project. (Transportation)

[Rules and Open Government Committee referral 9/19/07 – Item (G)(1)]  
(Deferred from 10/16/07 – Item 7.1)

Documents Filed: (1) Memorandum from Council Member Constant, dated September 13, 2007, recommending staff to expand Clean Air Vehicle Program to include all zero emission vehicles registered in the City of San José. (2) Memorandum from City Clerk Lee Price, dated September 21, 2007, submitting Rules and Open Government Committee approval of September 19, 2007 recommendation to expand clean air vehicle program. (3) Memorandum from Director of Transportation James R. Helmer, dated September 14, 2007, recommending acceptance of staff report on workload assessment of Zero Emissions Vehicle Parking Validation Program.

Motion: Council Member Williams moved approval of the staff recommendations as described above, and Council Member Pyle seconded the motion.

## 7.1 (Cont'd.)

Council Member Liccardo requested to amend the motion by directing Staff to work with the Parking Board and the Transportation and Environment Committee to evaluate if this benefit should be extended to all otherwise qualifying vehicles. The amendment was accepted by Council Members Williams and Pyle .

Director of Transportation James Helmer responded to Council questions.

Public Comments: Ross Signorino presented personal observations about electric cars.

Action: On a call for the question, the motion carried unanimously, and Staff was directed to work with the Parking Board and the Transportation and Environmental Committee to evaluate if this benefit should be extended to owners of other qualifying clean air vehicles. Staff was further directed to expand the Clean Air Vehicle Program to include all zero emission vehicles registered in the City of San José. The Staff Report on the workload assessment of making Zero Emissions Vehicles was accepted. (11-0.)

- 7.2 (a) **Adoption of a resolution establishing a goal of 75% waste diversion by 2013, and a goal of Zero Waste by 2022;**  
(b) **Direct staff to complete waste characterization studies and return to the Transportation and Environment Committee with those results by August 2008 and;**  
(c) **Direct staff to return by the end of 2008 for Council consideration of an Integrated Waste Management Master Plan to achieve zero waste goals.**

**CEQA: Not a Project. (Environmental Services)**

**[Transportation and Environment Committee referral 10/1/07 – Item (b)]**

**(Deferred from 10/23/07 – Item 7.1)**

Documents Filed: (1) Memorandum from Agenda Service Manager Nadine Nader, dated October 4, 2007, submitting report on Zero Waste Goals. (2) Memorandum from Director of Environmental Services John Stufflebean, dated September 20, 2007, recommending acceptance of the report.

Director of Environmental Services John Stufflebean presented a staff report regarding Zero Waste Goals.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 74077](#), entitled: “Resolution of the Council of the City of San José Adopting a Goal of 75% Waste Diversion by 2013 and a Goal of Zero Waste by 2022 for the City of San José” was adopted and Staff was directed to complete waste characterization studies and return to the Transportation and Environment Committee with those results by August 2008, and return by the end of 2008 for Council consideration. (11-0.)

- 7.3**
- (a) Adoption of a goal for San José to achieve Global Sustainable City status through implementing 19 to 21 Actions that make up the Urban Environmental Accords covering energy/climate change, waste reduction, urban design, urban nature, transportation, environmental health and water.**
  - (b) Approval of the table describing a 5-year implementation work plan with specific tasks and activities, with the following specific actions being brought forward for Council consideration in Fiscal Year 2007/2008:**
    - (1) A “zero waste” goal,**
    - (2) A water conservation plan,**
    - (3) Greenhouse gas emission reduction goals, and**
    - (4) The Las Plumas Master Plan.**
- CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated October 9, 2007, recommending acceptance of the staff report.

Director of Environmental Services John Stufflebean presented the staff report and responded to Council questions.

Public Comments: Mark Boyd indicated support and submitted a report to the City Clerk, entitled: “101 Initiatives for Policymakers preparing a Climate Action Plan”.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the adoption of the Global Sustainable City status and approval of the 5-year implementation work plan was approved. (10-0-1. Absent: Constant).

## **STRATEGIC SUPPORT SERVICES**

### **3.1 Report of the Rules and Open Government Committee – October 10, 2007 Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated October 10, 2007.

- (a) City Council**
  - (1) Review October 16, 2007 City Council Agenda**

The Committee approved the October 16, 2007 City Council Agenda with four additions.

- (2) Review October 23, 2007 Draft City Council Agenda**

The Committee approved the October 23, 2007 Draft City Council Agenda with four additions.

### **3.1 Report of the Rules and Open Government Committee – October 10, 2007 (Cont'd.) Mayor Reed, Chair**

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(2) Federal

There were none.

(d) Meeting Schedules

(1) Approve setting a Study Session on the expansion of the City of San José's Inclusionary Housing Policy on December 11, 2007 from 6:00 p.m. - 8:00 p.m. Attachment: Memorandum from Agenda Services Manager, Nadine Nader, dated October 5, 2007, recommending approval of setting a study session.

The Committee approved the scheduling of the Study Session.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated October 4, 2007, transmitting items for the Public Record for the period of September 27 – October 4, 2007.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees - There were none

(g) Rules Committee Reviews, Recommendations and Approvals - There were none.

(h) Review of Additions to Council Committee Agendas - There were none.

(i) Open Government Initiatives - There were none.

(j) Open Forum - None were presented.

(k) Adjournment

The meeting was adjourned at 2:14 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of October 10, 2007, were accepted. (11-0).

### **3.2 Report of the Public Safety, Finance and Strategic Support Committee October 18, 2007 - Council Member Nguyen, Chair**

- (a) Staff Progress Report on Council Direction to Develop Objective Criteria and/or New Definitions for the Citizen Complaint Process. Attachments: (1) Memorandum from City Manager, Debra Figone, dated October 10, 2007, recommending acceptance of the report, and (2) Memorandum from Independent Police Auditor, Barbara Attard, dated October 10, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (b) Monthly Financial Report for July/August 2007. Attachment: (1) Memorandum from Budget Director, Larry D. Lisenbee, dated October 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) Redevelopment Agency Monthly Financial Reports. Attachments: Finance Department, "*Financial Results for the 2 Months Ended August 31, 2007, Fiscal Year 2007-08*", Memorandums from Executive Director of the Redevelopment Agency of the City of San José, Harry S. Mavrogenes; one dated October 3, 2007, and two dated October 4, 2007, recommending acceptance of the reports.
  - (1) Financial Statements
  - (2) Capital Cost Report
  - (3) Cash Flow Projections

The Committee accepted the Staff Report.

- (d) Assessing Performance: An Analytical Framework for the San José McEnery Convention Center. Attachment: Memorandum from Interim City Auditor, Steven Hendrickson, dated October 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report, including comments from Team San José.

- (e) Audit Recommendation Follow-up: The San José Police Department's Staffing and Deployment. Attachments: (1) Memorandum from Interim City Auditor, Steven Hendrickson, dated September 27, 2007, recommending acceptance of the report, and (2) Memorandum from Chief of Police, Robert L. Davis, dated October 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report, with item to be cross referenced to the October 30, 2007 City Council Meeting. See Item 8.1 for Council Action Taken.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee (Cont'd.)  
October 18, 2007 - Council Member Nguyen, Chair**

- (f) Public Safety Quarterly Report. (Police/Fire)
  - (1) Police
  - (2) Fire

Deferred to November 2007.

- (g) FY 06-07 Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ended June 30, 2007. Attachment: Memorandum from Executive Director of the Redevelopment Agency of the City of San José, Harry S. Mavrogenes, dated October 9, 2007, recommending acceptance of the report.
  - (1) City  
Deferred to November.
  - (2) Redevelopment Agency

The Committee accepted the Staff Reports.

- (h) FY 06-07 Comprehensive Annual Debt Report. Attachment: Memorandum from Director, Finance Department, Scott P. Johnson, dated October 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (i) Report on the 2007 California Building Standards Adopting Ordinance. Attachments (1) Memorandum from the Director, Planning, Building and Code Enforcement, Joseph Horwedel, and Fire Chief, Darryl Von Raesfeld, dated October 8, 2007 recommending acceptance of the report, and (2) Memorandum from Fire Chief, Darryl Von Raesfeld, dated October 8, 2007, recommending acceptance of the report.
  - (1) California Building Standards Code
  - (2) California Fire Code

The Committee accepted the Staff Reports to be heard by Council 11/6/07.

- (j) Review of Relevant Legislative Guiding Principles for 2008. Attachment: Memorandum from Director, Intergovernmental Relations, Betsy Shotwell, dated October 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (k) Oral Petitions - None were presented.
- (l) Adjournment - The meeting was adjourned at 4:12 p.m.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee (Cont'd.)  
October 18, 2007 - Council Member Nguyen, Chair**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle, and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and actions of October 18, 2007 were accepted. (11-0.)

- 3.3**
- (a) Approval of the conversion of the Fourth and St. John (Employee) garage retail space to municipal use for the Transportation Incident Management Center and a technology training center.**
  - (b) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the General Fund:**
    - (1) Eliminate the Reserve for City Hall Build-out of \$175,000; and**
    - (2) Establish an appropriation for Employee Garage Build-Out in the amount of \$175,000.**
  - (c) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Convention and Cultural Affairs Fund:**
    - (1) Establish an appropriation for Office of Cultural Affairs Improvements in the amount of \$380,000; and**
    - (2) Reduce the Ending Fund Balance by \$380,000.**
  - (d) Acceptance of staff proposals regarding next steps for City Hall Retail Space and temporary uses of City Hall Retail Space.**

**CEQA: Resolution Nos. 68905 and 72230. Council District 3. (General Services/Economic Development/City Manager's Office)  
(Deferred from 10/16/07 – Item 3.7)**

Documents Filed: (1) Memorandum from Director of General Services Peter Jensen; Chief Development Officer Paul Krutko; and Budget Director Larry Lisenbee, dated September 25, 2007, and (2) Supplemental memorandum from director of General Services Peter Jensen, Chief Development Officer Paul Krutko, and Budget Director Larry Lisenbee, dated October 24, 2007, approving actions related to the use of the City Hall and Employee Garage Retail Spaces.

Motion: Council Member Liccardo moved approval of the staff recommendations direction to Staff as described in “Action” below. Council Member Campos seconded the motion.

Chief Development Officer Paul Krutko, responded to Council questions. Discussion followed.

Action: On a call for the question, the motion carried unanimously, and the conversion of the Fourth and St. John garage retail space to municipal use for the Transportation Incident Management Center and a technology training center was approved, Ordinance No. 28161, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Employee Garage Build-out; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption,” and

### 3.3 (Cont'd.)

[Ordinance No. 28162](#), entitled “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Convention and Cultural Affairs Fund for the Office of Cultural Affairs Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption,” were adopted. The staff proposals regarding next steps for City Hall Retail Space and temporary uses of City Hall Retail Space were accepted, with Staff directed to include: (1) Conduct a series of interviews to assess how or if a Request for Proposal (RFP) may be fashioned for the use of the City Hall space and that those interviews should include potential bidders on any future RFP; and that this process should include a series of meetings, rather than a single focus group, in particular where potential bidders are involved and that the conversations may be limited to the interviewee alone to ensure that the participants are forthcoming and not reluctant to provide information that might otherwise be available to potential competitors; and (3) If there are such interviews with a potential bidder that those conversations be based on a publicly available set of questions that will be uniformly posed to all interviewees; and (4) Stakeholder groups be consulted (such as City employees, labor, community leaders and commercial brokers); and (5) Potential commercial uses should include uses other than restaurants, i.e. gymnasiums or other services likely to be utilized by City employees and nearby residents; and further (6) Staff return to Council with recommendations to allow Council to determine whether or not to direct Staff to prepare an RFP, and (7) In the meantime, short term uses (as mentioned in the memorandum) should continue to be explored. (11-0.)

### 3.5 **Recommendation: Receive verbal update of legislative priorities. (Mayor)** **(Rules Committee referral 10/17/07)**

Senator Elaine Alquist presented an update of legislative priorities. Individual Council comments followed.

Action: Update received. No Council action was required.

### 3.4 **Take the following actions, regarding Waste Management, Inc. and its affiliates relating to the Kirby Canyon Landfill and Guadalupe Rubbish Disposal Co., both located in San José, and other projects located elsewhere in the state:**

- (a) **Conduct a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Hearing for the issuance of \$225,000,000 of tax-exempt solid waste disposal facility revenue bonds by California Municipal Finance Authority (“CMFA”).**
- (b) **Adoption of a resolution approving the issuance of Tax-Exempt Revenue Bonds by the CMFA in an aggregate principal amount not to exceed \$225,000,000 to be used to (1) equip and construct certain solid waste disposal facilities, including an amount not expected to exceed \$23,470,000 on facilities located in the City of San José; and (2) pay certain expenses incurred in connection with the issuance of the bonds.**

**CEQA: Not a Project. Council Districts 2 and 10. (Finance)**



### 3.4 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated October 11, 2007, recommending adoption of appropriation ordinances and funding sources resolution amendments.

Public Comments: Mayor Reed opened the TEFRA Hearing. Shannon O'Keeffe, representing the Brotherhood of Teamsters, described monitoring activities of waste management. Mayor Reed closed the TEFRA hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, [Resolution No. 74078](#), "Resolution of the Council of the City of San José Approving a Revenue Bond Financing to be Issued by the California Municipal Finance Authority to Benefit Waste Management, Inc.", was adopted. (11-0).

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.2 (a) Adoption of a resolution approving the construction of additional improvements at Logitech Ice at San José at no cost to the City.

### (b) Adoption of a resolution approving the name change of the ice facility from Logitech Ice at San José to "Sharks Ice at San José."

**CEQA: Exempt, File No. PP07-210. (Economic Development)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated October 30, 2007, recommending approval of additional improvements and name change at Logitech Ice at San José. (2) Supplemental Memorandum from Chief Development Officer Paul Krutko, dated October 25, 2007, clarifying actions to be addressed according to the Lease and Management Agreement between the City and HP Pavilion.

Public Comments: Don Gralnek, Executive Vice President/General Counsel San Jose Sharks, spoke in support of the name change to Logitech Ice at San José.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 74079](#), entitled "A Resolution of the Council of the City of San José Approving the Construction of Additional Improvements at Logitech Ice at San José by HP Pavilion Management at No Cost and Expense to the City of San José", and [Resolution No. 74080](#) entitled "A Resolution of the Council of the City of San José Approving the Name Change of the Ice Facility from Logitech Ice at San José to Sharks Ice at San José" were adopted. (11-0).

## NEIGHBORHOOD SERVICES

### 5.1 Report of the Neighborhood Services and Education Committee – October 11, 2007 Council Member Chirco, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated October 11, 2007.

- (a) Report on the 2007 Summer Aquatics. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated September 21, 2007, recommending acceptance of the report.

The Committee accepted the Report.

- (b) San José Education Foundation Update on Homework Center Program.

The Committee accepted the Staff Report, with Staff directed to update the Committee in January 2008 regarding the agreement.

- (c) Evaluation of Second Unit Pilot Program. Attachment: Memorandum from Director of Housing, Leslye Krutko and Director, Department of Planning, Building and Code Enforcement, Joseph Horwedel, dated September 25, 2007, recommending adoption of these ordinances.

The Committee accepted the Report. Heard by Council on 10/16/07.

- (d) Approval of Proposed Grants Policy and a Proposed Emergency Grants Policy and Procedure. (CMO) Attachment: Memorandum from Deputy City Manager, Mark Linder, dated September 21, 2007, recommending acceptance of this report.

The Committee accepted the Staff Report, with Staff directed to cross reference this item to the full Council for their approval on October 23, 2007. See Item 5.2 for Council Action Taken.

- (e) Strong Neighborhoods Monthly Update. (CMO)
  - (1) Renewing the Action Agenda Update.

Deferred to November 2007.

- (2) Richmond-Menker Neighborhood Assessment. Attachment: Memorandum from Deputy City Manager Mark Linder and Deputy Executive Director John Weis dated September 25, 2007, recommended acceptance of the report.

The Committee accepted the Report.

**5.1 Report of the Neighborhood Services and Education Committee – October 11, 2007  
Council Member Chirco, Chair (Cont'd.)**

- (f) Schools/City Collaborative Monthly Update. (CMO/Neighborhood Services CSA)

The Committee accepted the Staff Report.

- (g) Review of Relevant Legislative Guiding Principles for 2008. (CMO) Attachment: Memorandum from Director, Intergovernmental Relations Betsy Shotwell, dated September 19, 2007, presenting review and discussion of the draft 2008 Legislative Guiding Principles with focus on the Neighborhood Services City Service Area.

Deferred to November 2007.

- (h) Oral Petitions - None were presented.

- (i) Adjournment - The meeting was adjourned at 3:25 p.m.  
(Deferred from 10/23/07 – Item 5.1)

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of October 11, 2007, were accepted. (11-0.)

**5.2 Approval of the Proposed Grants Policy and the Proposed Emergency Grants Policy and Procedure.**

- (a) **Adoption of a resolution approving a new Council policy on Grants to Outside Entities. .**
- (b) **Adoption of a resolution approving a new Council policy on Emergency Financial Assistance to Non-Profit Organizations.**
- (c) **Direct staff to incorporate the following requirement related to web posting of financial information to the City's standard terms and conditions for grant agreements and operating subsidy agreements:**
- (1) **For organizations receiving cumulative City grant or operating subsidy funding greater than \$200,000 in a fiscal year, the organization shall post their most recent yearly audited financial statement on their organization's web site and not later than 30 days after receipt of the audited financial statement.**

**CEQA: Not a Project. (City Manager's Office)**

**[Neighborhood Services and Education Committee referral 10/11/07 – Item (d)]**

**(Deferred from 10/23/07 – Item 5.4)**

Documents Filed: (1) Memorandum from Agenda Service Manager Nadine Nader, dated October 12, 2007, presenting report on Proposed Grants Policy and a Proposed Emergency Grants Policy and Procedure to the Neighborhood Services and Education Committee. (2) Memorandum from Deputy City Manager Mark Linder, dated September 21, 2007, recommending acceptance of report.

## **5.2 Approval of the Proposed Grants Policy and the Proposed Emergency Grants Policy and Procedure. (Cont'd.)**

Deputy City Manager Mark Linder responded to Council questions.

Staff was directed to incorporate requirements related to web posting of financial information to the City's standard terms and conditions for grant agreements and operating subsidy agreements.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, [Resolution No. 74081](#), entitled "A Resolution of the Council of the City of San José Approving the Policy on Grants to Outside Entities", and [Resolution No. 74082](#), entitled "A Resolution of the Council of the City of San José Approving the Policy on Emergency Financial Assistance to Non-Profit Organizations", were adopted. (11-0.)

## **PUBLIC SAFETY SERVICES**

- 8.1 (a) Approval to continue use of the police staffing software known as Staff Wizard;**  
**(b) Approval to close out the remaining recommendation resulting from the audit of the SJPD's Bureau of Field Operations Patrol Division's Staffing and Deployment (2000 Audit); and**  
**(c) Reaffirmation of the City Council's previous acceptance of SJPD's Five-Year Staffing Plan: 2007-2012.**

**CEQA: Not a Project. (Police)**

**[Public Safety, Finance and Strategic Support Committee referral 10/18/07 Item (5)]**

Documents Filed: (1) Memorandum from Agenda Service Manager, Nadine Nader dated October 23, 2007, recommending acceptance of the report. (2) Memorandum from Chief of Police Robert L. Davis, dated October 9, 2007, recommending acceptance of the City Auditor's Office report. (3) Memorandum from Interim City Auditor Steven Hendrickson dated September 27, 2007 recommending acceptance of the report.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the Staff recommendations were approved, and the City Council reaffirmed acceptance of the SJPD's Five-Year Staffing Plan. (11-0).

## **JOINT COUNCIL/REDEVELOPMENT AGENCY**

**The Redevelopment Agency Board convened at 4:26 p.m. to Consider Item 9.2 in a Joint Session.**

**9.2 (a) Adoption of a resolution:**

- (1) Approving the seventh amendment to the agreement between the Housing Department and NHSSV for the HomeVenture Fund, to allow NHSSV to retain \$1.3 million from the HomeVenture Fund to be used for accrued administrative costs.**
  - (2) Approving the first amendment to the Housing Trust Fund agreement between the Housing Department and NHSSV for an additional \$250,000 administrative support for the First Time Homebuyers Program to provide first time homebuyer services and provide a volunteer paint program within SNI areas (funds to be transferred to the Housing Department from the Redevelopment Agency by a Project Services Memorandum (PSM); and,**
  - (3) Authorizing the Director of Housing to negotiate and execute an amendment to the HomeVenture grant agreement, the amendment to the Housing Trust Fund Grant agreement, and related documents.**
- (b) Adoption of a resolution by the Agency Board approving the use of \$250,000 of Agency funds for the administrative support of NHSSV's First Time Homebuyers Program and volunteer paint program.**  
**CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director Harry S. Mavrogenes, dated October 9, 2007, recommending acceptance of the staff report and adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74083](#), entitled: "A Resolution of the Council of the City of San José (A) Approving a Seventh Amendment to the Home Venture Fund Grant Agreement to Allow Neighborhood Housing Services Silicon Valley to Retain \$1,300,000 from the Home Venture Fund to be Used for Accrued Administrative Costs; (B) Approving a First Amendment to the Housing Trust Fund Agreement Between the City and NHSSV for an Additional \$250,000 in Administrative Support for the First Time Homebuyers Program to Provide First Time Homebuyer Services and Provide a Volunteer Paint Program Within SNI Areas; and (C) Authorizing the Director of Housing to Negotiate and Execute an Amendment to the Home Venture Grant Agreement, the Amendment to the Housing Trust Fund Grant Agreement, and Related Documents.", and [Redevelopment Resolution No. 5795](#), entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving the Use of \$250,000 of Agency Funds for the Administrative Support of Neighborhood Housing Services of Silicon Valley's First Time Home-buyers Program and Volunteer Paint Program" were adopted. (11-0.)

## **OPEN FORUM**

- (1) Robert Apgar shared personal observations.
- (2) Sophia, Marshall and Tessa Woodmansee expressed support and congratulated Mayor Reed for the Mayor's Green Vision.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 4:35 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/10-30-07MIN

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